

April 30, 2007

B-19J

Ms. Cheryl Martin
Federal Highway Administration
Galtier Plaza, Suite 500
380 Jackson Street
St. Paul, MN 55101

Re: Final Environmental Impact Statement – Trunk Highway 23 Improvements, Paynesville,
Minnesota. CEQ No. 20070110

Dear Ms. Martin:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the United States Environmental Protection Agency, Region 5 (U.S. EPA) has reviewed the Final Environmental Impact Statement (FEIS) for the Trunk Highway 23 (TH 23) Improvements Project in and around the City of Paynesville, Kandiyohi and Stearns Counties, Minnesota. The purpose of the proposal is to resolve existing and anticipated future traffic congestion, roadway deficiencies and safety problems, and improve regional mobility between St. Cloud and Willmar, Minnesota on TH 23.

The FEIS preferred alternative is a proposed four-lane 7.7-mile long TH 23 bypass rural expressway around the City of Paynesville on the west and north. The TH 23 bypass begins at County State Aid Highway (CSAH) 6 in Kandiyohi County and ending 0.40 miles southwest of CSAH 123 in Stearns County. The FEIS preferred alternative utilizes new alignment for most of the corridor and includes a new crossing of the North Fork Crow River.

U.S. EPA commented on the Draft Environmental Impact Statement (DEIS) for this proposal in our letter dated July 12, 2005. We rated all DEIS alternatives EC-2 (Environmental Concerns – insufficient information). Our ratings were based on our concerns regarding potential impacts to surface/ground water quality and drinking water supplies, aquatic resources, wildlife habitat, wetlands and noise impacts. We had recommended the FEIS include additional information regarding these resources, potential impacts and mitigation.

The FEIS preferred alternative is a revised version of the Draft EIS (DEIS) West Alignment Alternative. The revisions include several shifts in the alignment, including a 600-foot-shift west at the North Fork Crow River crossing, several changes in interchange locations and interchange types, and realignments of Cemetery Road and County Road 130. The FEIS identifies that revisions were made, in part, to reduce environmental impacts. The FEIS preferred alternative reduces the number of residential relocations from 15 to 7, transverse floodplain impacts from 4 to 2 acres, and riparian forest impacts from 3 to 2 acres. There are no upland forest impacts. Ten

acres of non-forested wetlands, distributed across 14 sites, would be directly impacted by the FEIS preferred alternative.

Surface/Ground Water Quality/Drinking Water Supply

We appreciate that the FEIS includes additional information concerning the status of the Minnesota Department of Health (MnDH) Wellhead Protection Plan (WPP) for the City of Paynesville's well fields, as we had recommended. This information disclosed that groundwater flow and gradients vary extensively over a relatively short distance, and the hydraulic connection between the river and the supply aquifer is complex. When this information was taken into consideration, the FEIS disclosed that 3.7 miles of the FEIS preferred alternative is located within the Drinking Water Supply Management Area. Approximate 2.2 miles of the preferred alternative is within the 10-year time of travel zone for the city wells.

The FEIS identifies potential mitigation measures that can be taken during construction and operation to protect this drinking water supply resource. One of these measures is the development of a Storm Water Pollution Prevention Plan (SWPPP) for construction to address temporary and permanent pollution control measures during design construction to protect this resource. Another measure specifies that the location and design of permanent storm water storage and conveyance systems in this area should be carefully considered in light of local geologic conditions, and that ponds and conveyance systems should be either located in areas that exhibit a confining layer and/or be lined with such materials. In order to protect this valuable resource, we request that the FHWA Record of Decision (ROD) for this proposal stipulate that these specific protective measures will be undertaken for the TH 23 project.

North Fork Crow River and Floodplains

We appreciate that the FEIS identifies that MnDOT will develop a storm water runoff and hazardous spill retention plan during preliminary and final design. However, we note that MnDOT does not commit to bridging across the entire 100-year floodplain of the North Fork Crow River as we had recommended. This bridge crossing is responsible for the 2 acres of riparian forest impacts that are identified for the FEIS preferred alternative. The FEIS is unclear whether impacts to this riparian forest could reasonably be avoided or further reduced by bridging across the entire 100-year floodplain. We recommend the ROD disclose this information.

Woodlands and Riparian Wildlife Habitat/Corridors

U.S. EPA appreciates that the FEIS provides information on forest loss as we recommended. The FEIS identifies that no upland forest will be impacted by the preferred alternative. However, as we mentioned above, 2 acres of riparian forest will be lost due to the crossing of the North Fork Crow River. We note that compensation for the loss of riparian forest is not identified in the FEIS. As mentioned above, the FEIS is unclear whether impacts to the riparian forest could be reasonably avoided or further reduced by bridging across the entire 100-year floodplain. We recommend the ROD for this proposal disclose the type and level of mitigation that will be undertaken for impacts to riparian forest. This could include, but is not limited to, a commitment to bridging across the riparian forest and/or a commitment to plant native saplings within the buffer areas at wetland mitigation compensation sites.

Wetlands

The FEIS preferred alternative would directly impact 10 acres of wetlands, compared to 6.39 acres for the DEIS West Alignment Alternative. The FEIS identifies that wetland impacts increased due to more refined design and wetland identification work that was undertaken since the DEIS. The FEIS preferred alternative wetland impacts are spread across 14 locations. None of the wetlands impacted are forested wetlands. The FEIS identifies that a Minnesota Rapid Assessment Method (MnRAM, Version 3.0) analysis was performed to assess the wetlands' functions and values. The FEIS states that most of the wetlands are of poor quality. Wetland mitigation ratios of at least 1:1 are proposed. Potential mitigation sites, totaling 27 acres, within the project area and same watershed are identified. The use of credits at a wetland mitigation bank is also put forward as a potential wetland compensation mitigation option, if needed. U.S. EPA prefers wetland mitigation take place within the project area and within the same watershed. U.S. EPA retains our right to comment in the future on the adequacy of this project's compliance with the Clean Water Act (CWA) Section 404(b)(1) guidelines during the U.S. Army Corps of Engineers' CWA Section 404 permitting process for this TH 23 project.

Cumulative and Secondary Impacts Analysis

We appreciate the additional information provided in the FEIS concerning local land use plans and zoning ordinances, and the incorporation of this information as part of the analysis as we had requested. The disclosure of the various items covered under the City's Zoning Ordinances and accompanying Shoreland Management Overlay District provided some initial understanding of the specific natural resources that are considered for protection at a local level. The FEIS identifies that the local zoning and accompanying overlay district include controls on allowable uses, lot size, and development density, impervious coverage ratios, setbacks from surface waters, vegetation and topography alteration, open space dedication, erosion control, sewage disposal, and storm water management. The FEIS also identifies similar controls are provided in the Zoning and Shoreline Management Ordinances for Stearns and Kandiyohi Counties, Paynesville, Eden Valley, and Roseville Townships. In future projects, please provide more detailed information on each of these items to describe the adequacy of a local community's measures to protect various natural resources. For example, the disclosure of the specific setback distances from surface waters would be even more informative.

Thank you for the opportunity to review and comment on the FEIS for the proposed TH 23 improvements project. If you have any questions regarding our FEIS comments, you may contact Virginia Laszewski of my staff at (312) 886-7501. Please send us a copy of the ROD when it is available.

Sincerely,

/S/

Kenneth A. Westlake, Chief
NEPA Implementation Section
Office of Science, Ecosystems and Communities

cc: Minnesota Department of Transportation, District 8, 2505 Transportation Road,
P.O. Box 768, Willmar, MN 56201-0768 (Atten: Lowell Flaten, Project Manager)